

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

301 State House
(317)232-9855

FISCAL IMPACT STATEMENT

LS 6071

BILL NUMBER: SB 33

DATE PREPARED: Oct 22, 1998

BILL AMENDED:

SUBJECT: Resolution of water diversion disputes.

FISCAL ANALYST: Beverly Holloway

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FUNDS AFFECTED: **GENERAL
DEDICATED
FEDERAL**

IMPACT: Local

Summary of Legislation: This bill creates a procedure for resolving surface water disputes. It provides that a person seeking redress for injuries caused to the person's property as a result of a diversion of the natural surface watercourse on a neighboring property may file a petition with the drainage board. The drainage board is permitted to investigate, to hold a hearing on the petition, and to issue an order requiring the removal or remedy of the diversion.

This bill permits a person who owns the land that is the subject of the petition to file an action in Circuit or Superior Court to vacate the drainage board's order.

Effective Date: July 1, 1999.

Explanation of State Expenditures:

Explanation of State Revenues:

Explanation of Local Expenditures: This bill establishes a procedure to be used by a county drainage board in resolving surface water disputes. The procedure permits the county drainage board to: (1) investigate; (2) hold a hearing on the petition; and (3) issue an order requiring the removal or remedy of the surface water diversion. If the county drainage board finds in favor of the petitioner, based upon the county surveyor's investigation, the drainage board shall enter an order directing the respondent(s) to remove or remedy the diversion at the expense of the respondent(s). The county drainage board has the option to authorize an advance on the county General Drain Improvement Fund, a dedicated fund, for the payment of the costs of the removal work. The advance is to be reimbursed by the respondent(s).

This bill also establishes an appeal procedure. A person who owns the land that is the subject of the petition is allowed to file an action in a Circuit or Superior Court to vacate the drainage board's order. This provision

could increase the number of cases heard by a Circuit or Superior Court. The fiscal impact should be negligible but is dependent on the number of cases heard due to implementation of this bill.

Explanation of Local Revenues: The county drainage board **may** require the payment of a filing fee as a condition of filing a petition under the procedure established in this bill. The filing fee may not be greater than is reasonable necessary to defray the expenses incurred by the county drainage board in processing the petition. The fiscal impact is dependent on local action.

If the respondent(s) fail(s) to reimburse the county General Drainage Improvement Fund the county drainage board may recover the reimbursement through court action. The bill provides that the county drainage board may also be awarded costs and reasonable attorney fees from the respondent(s).

State Agencies Affected:

Local Agencies Affected: County drainage board, county surveyor, Circuit or Superior Court.

Information Sources: